

REMARKS

Claims 1-4 remain pending in the application.

Claims 1-4 are rejected under 35 U.S.C. §102(b) over Joh et al. U.S. Patent No. 4,508,535. Applicant respectfully traverses this rejection. Claims 1 and 3 are independent method (process) claim. The Examiner states that “[t]he Joh et al device would inherently [be] capable of performing the steps as recited in these method claims.” As MPEP 2112.02 notes, a prior art device only anticipates a claimed process if the device carries out the process during normal operation. In this case, it is readily apparent that the device of Joh does not perform the method of either claim 1 or 3 during normal use and operation. With reference to Figs. 6A and 6B, Joh discloses an inflow cannula 14 inserted into the left atrium 17. An outflow cannula 33 is inserted intoward the ascending aorta 34 (see also col. 9, lines 17-24). In particular, Joh does not teach or suggest a method of providing cardiac support as defined in claim 1 comprising (i) inserting a cannula through a first valve into a heart chamber in an antegrade flow direction, (ii) inserting the cannula through a second valve out of the heart chamber in an antegrade flow direction, (iii) drawing blood into the cannula through the inlet upstream of the first valve, or (iv) discharging blood from the cannula through the outlet downstream of the second valve, thereby bypassing the heart chamber. Dependent claim 2 further defines the subject of claim 1 and is therefore also believed to be allowable over the cited reference. Nor does Joh teach or suggest a method of providing cardiac support as defined in claim 3 comprising (i) inserting a cannula through a first valve into a heart chamber in a retrograde flow direction, (ii) inserting the cannula through a second valve out of the heart chamber in a retrograde flow direction, (iii) drawing blood into the cannula through the inlet upstream of the second valve, or (iv) discharging blood from the cannula through the outlet downstream of the first valve, thereby bypassing the heart chamber. Dependent claim 4 further defines the subject of claim 4 and is therefore also believed to be allowable over the cited reference.

In this case, the claimed methods of use are not directed to a result or property of any composition or structure. Therefore, the claimed methods of use are new and obvious and therefore patentable subject matter. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

Claims 1-4 are rejected under the doctrine of obviousness-type double patenting over claims 1-22 of U.S. Patent No. 6,709,418 (the ‘418 Patent). Applicant respectfully traverses this rejection. MPEP §804(II)(B)(1) requires a side by side comparison of claims of the instant application and the

claims of the '418 Patent, keeping in mind that only the claims of the '418 Patent can be considered as support for the rejection, and the disclosures of the reference is looked to only to determine the meaning of the claims. The claims of the '418 Patent do not teach or suggest a method of providing cardiac support as defined in claim 1 comprising (i) inserting a cannula through a first valve into a heart chamber in an antegrade flow direction, (ii) inserting the cannula through a second valve out of the heart chamber in an antegrade flow direction, (iii) drawing blood into the cannula through the inlet upstream of the first valve, or (iv) discharging blood from the cannula through the outlet downstream of the second valve, thereby bypassing the heart chamber. Nor do the claims of the '418 Patent teach or suggest a method of providing cardiac support as defined in claim 3 comprising (i) inserting a cannula through a first valve into a heart chamber in a retrograde flow direction, (ii) inserting the cannula through a second valve out of the heart chamber in a retrograde flow direction, (iii) drawing blood into the cannula through the inlet upstream of the second valve, or (iv) discharging blood from the cannula through the outlet downstream of the first valve, thereby bypassing the heart chamber. Dependent claims 2 and 4 further defines the subject of claims 1 and 3 respectively and therefore are also believed to be allowable over the cited reference. As the claims of the '418 Patent do not teach or suggest the claimed methods, Applicant respectfully requests that this rejection be withdrawn.

Reconsideration in view of the foregoing remarks and allowance of claims 1-4 is respectfully requested.

Respectfully Submitted,

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